

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19-cv-140-FDW

JOHN JOSEPH MORRISON, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	<u>ORDER</u>
)	
MICHAEL W. MILLER, et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on its own motion.

On April 26, 2019, a Complaint pursuant to 42 U.S.C. § 1983 was docketed in the instant case. It is purportedly filed by 10 Plaintiffs who are in custody of the Cleveland County Detention Center. However, none of the Plaintiffs have signed the Complaint under penalty of perjury, and the signature line merely states “All Parties Affirm.” (Doc. No. 1 at 13). The envelope in which the Complaint was mailed to the court is return-addressed to Plaintiff Brandon Wilson and only Mr. Wilson has filed an Application to Proceed in District Court Without Prepaying Fees or Costs. (Doc. Nos. 1, 2).

Due to the serious deficiencies in the Complaint and the failure of all Plaintiffs except Brandon Wilson to file motions to proceed *in forma pauperis*, the Court is unable to screen the Complaint at this time.

Plaintiffs shall have **21 days** in which to file an Amended Complaint in which they may attempt to cure these deficiencies. Plaintiffs are reminded that, despite their *pro se* status, they must comply with all applicable procedures and rules including the Federal Rules of Civil Procedure and the Court’s Local Rules. Each of the Plaintiffs must sign the Amended Complaint

under penalty of perjury. Rule 8(a)(2) of the Federal Rules of Civil Procedure requires a “short and plain” statement of the claim. Any Amended Complaint will supersede the original Complaint and therefore any Defendants or claims not contained in the Amended Complaint will be waived. Plaintiffs must include the case number on the Amended Complaint so that it is docketed in the correct case. The filing of more than one Amended Complaint will probably result in the opening of separate § 1983 cases.

In addition, within **21 days** of this Order, each Plaintiff except for Mr. Wilson must separately pay the filing fee or file an Application to Proceed in District Court Without Prepaying Fees or Costs.

Plaintiffs’ failure to timely comply with this Order will probably result in the dismissal and closure of this case without further notice.

IT IS, THEREFORE, ORDERED that:

1. Plaintiffs shall have **21 days** in which to file an Amended Complaint in accordance with this Order and all applicable rules and procedures.
2. Plaintiffs shall have **21 days** in which to pay the filing fee or file an Application to Proceed in District Court Without Prepaying Fees or Costs.
3. If Plaintiffs fail to timely comply with this Order, this action will be dismissed and closed without prejudice and without further notice.
4. The Clerk is directed to mail to each Plaintiff a copy of the Section 1983 complaint form, Application to Proceed in District Court Without Prepaying Fees or Costs, and this Court’s Standing Order of Instructions (3:19-mc-54-FDW).

Signed: May 3, 2019



Frank D. Whitney
Chief United States District Judge

